

**Senate Select Committee on School Safety Hearing on  
“Sexual Orientation, Gender Identity Discrimination and School Safety”**  
Plummer Park- Fiesta Hall, West Hollywood  
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**Testimony of Kirk Bell,  
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**Pro-action, Not Punishment**

Most of us would agree that preventing something bad from happening is far better than punishment after the fact. We know that it's better, in the long run, to create a cultural atmosphere that encourages good behaviors rather than silently to accept an atmosphere in which bad behaviors are allowed. Few of us really want to have to punish bad behaviors after they occur.

In our schools, Americans expect educators to bring out the best in students so that they can be productive and well-grounded members of society. American education is all about potential, possibilities, and pro-action – not about punishment.

So, almost three years after AB 537 was enacted, all California students may ask,

- *Why are so many California schools still focusing only on punishing what are often perceived to be “just a few” perpetrators of anti-LGBT harassment and violence when those incidents occur so frequently?! Even worse, why are such incidents ignored entirely in some schools?!*

Further, students who are - or are perceived to be - lesbian, gay, bisexual, or transgender have a legitimate right to ask the question:

- *After almost three years with this law, I still do not feel safe in my school. Why are so many schools in California still not taking specific steps to implement AB537?!*

Admittedly, California is one of only eight states plus the District of Columbia to explicitly protect students based on sexual orientation. It is one of only three states to explicitly protect students based on gender identity and expression. With the enactment of AB 537 three years ago, Californians should be very proud.

However, California has a long way to go toward ensuring that the law is fully implemented or, in many school districts, implemented at all. Comparing students in California with those in other states with long-standing protections similar to AB 537 - Connecticut, Massachusetts, Minnesota, Vermont and Wisconsin - the GLSEN 2001 National School Climate Survey indicates that:

- *Students in California are 41% more likely than students from other protected states to report in-school physical harassment because of sexual orientation.*
- *Students from other protected states are 76% more likely than students from California to report that faculty or staff intervened "always" or "most of the time" when homophobic remarks were made.*

These numbers are shocking and point to the real need to focus on the implementation of AB537 by improving school climate in every school across California rather than to focus on what some seem to dismiss as “just a few bad apples”.

In many cases throughout California, students are unaware that their rights and lives are legally protected. Thousands of California’s teachers are without training that explains their rights and responsibilities around intervention and disciplinary action under AB537. While some local communities in California have spearheaded creative implementation programs of their own, California as a whole is lagging behind other states with similar laws in place.

California’s schools need to move from a misdirected focus – the punishment of perpetrators and the re-victimization of victims – to a more appropriately directed focus – creating school climates in which all students are embraced and encouraged to get along with each other. How can this be done? We suggest the following initial steps:

1. The State Department of Education and local school districts need to utilize new ways to inform and educate students, educators, and parents of their respective rights and responsibilities under this law. For example, every educator, school support staff, and student’s family should be informed in writing about the law and its expectations. Currently we know only that district superintendents and possibly building principals have been so informed.
2. The State Department of Education and local school districts need to focus on the root and substance of the matter by taking proactive steps to disassemble systems and attitudes currently in place that allow and even encourage students to harass others in the first place. LGBT-awareness training of administrative, teaching, and support staff would be a good start.
3. Local school administrators need to work with students, classroom teachers, school support staff, and even parents in each school community to create a positive school climate in which all members of that community are embraced and supported, including those who are, or are perceived to be, lesbian, gay, bisexual, or transgender.

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